



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 6355-99
17 March 2000



Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 1 April 1969 at age 19. The record shows that you successfully completed initial training and on 29 September 1969 you reported to your unit in Vietnam. A special court-martial convened on 13 March 1970 and convicted you of two specifications of disobedience of orders to report to your unit in the field. The court sentenced you to reduction to pay grade E-1, forfeiture of \$25 per month for six months, confinement at hard labor for six months and a bad conduct discharge. On 6 May 1970 you elected to waive the right to request restoration to duty. The bad conduct discharge was issued on 22 January 1971.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and limited education. The Board also considered the contentions that personal and financial problems impaired your ability to serve. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your disobedience of orders in the war zone. The Board believed that the offenses indicate that you were attempting to shirk combat duty, which is unacceptable conduct in any military unit.

There is no documentation in the record, and you have submitted none, to show that your personal and financial problems were any more severe than those experienced by many others, or that the problems would excuse your misconduct in the war zone. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director